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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,580	02/02/2001	John V. Marlow	T8465812US	6252

7590

12/05/2003

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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 12/05/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

①-3
1-4-5-6
7-8

Office Action Summary

Application No.

09/773,580

Applicant(s)

MARLOW ET AL. 

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

- A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 9-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/29/03 has been entered; wherein claim 1 was amended. Claims 7 and 9-21 remain withdrawn from consideration. Applicant's attempt to withdrawn claim 2 is noted, however, applicant cannot simply change the status of a claim in the claim listings. It appears that this was inadvertent by the applicant and it appears that the applicant intended to cancel the claim. Because examiner's cannot cancel claims without applicant's consent the examiner is informally changes the status in the listing of the claims to "original". Applicant must address this in subsequent responses.

Claim Objections

2. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In this case, claim 1 was amended to include the limitations of the claim 2; yet claim 2 remains dependent upon claim 1. Also see examiner's comments in the first paragraph of this action.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (see specification pages 1-4 and Figures 1-3), hereinafter AAPA, in view of Roberts et al., U.S. patent 3,856,135, and Chen et al., U.S. Patent application 2002/0124388.

AAPA discloses the invention substantially as claimed, as explained in the instant application on pages 1-4, including the steps of cutting papered batter plates as well as teaching the need for a method of cutting paperless battery plates. However, AAPA lacks the specific method of cutting paperless battery plates with a heat blade at a temperature of at least about 150 degrees Celsius to prevent the paste from sticking to the blade.

Chen et al. discloses that it is old and well known in the art to use paperless battery plates for the purpose of maximize productivity and flexibility of the manufacturing process as well as benefiting the initial electrical performance of the batteries. Roberts et al. discloses that it is old and well known in the art to heat elements that come into contact with the paste for the purpose of preventing the paste from sticking to the elements. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use paperless battery plates that

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can be cut using a heated blade in order to increase the initial electrical performance of the batteries.

The modified device of AAPA discloses the invention substantially as claimed except for the specific heated temperature of at least 150 degrees Celsius or to a range of 160 to 300 degrees Celsius or to a range of 180 to 210 degrees Celsius for the cutting die roll and the anvil roll. However, it would have been obvious to one of having ordinary skill in the art at the time of the invention was made to heat the cutting device/cutting roll to 150 degrees Celsius or within the range of 160 to 300 degrees Celsius for the purpose of ensuring the cutting device is heated enough to prevent the paste from sticking, because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

As to claim 5, even if it is argued that the modified device of AAPA lacks the indexing mechanism, the examiner takes official notice that it is old and well known in the art to use index mechanism while cutting mesh strips for the purpose ensuring accurate cuts in the mesh. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use an indexing mechanism with the device of AAPA in order to ensure an accurate cut in the mesh strip.

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Response to Arguments


5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Boyer D. Ashley
Primary Examiner
Art Unit 3724

Bda
28 November 2003